

CHAPTER 16. WATERSHED OVERLAY DISTRICTS

SECTION 16.1. APPLICABILITY

- A.** In accordance with NCGS Chapter 143 Article 21, unless specifically exempt below, the provisions of this Chapter shall apply to all development within a Watershed Overlay District, as designated and administered by the NC Environmental Management Commission.
- B.** The class WS-IV district applies only to new development projects that require a sedimentation and erosion control plan resulting in the disturbance of one acre or more of land area.
- C.** Permitted uses and conditional uses listed in the Table of Uses (see Chapter 6) for the appropriate district are allowed in the Watershed Overlay Districts, but new sludge application sites and landfills are specifically prohibited in the critical areas of any watershed overlay district.

SECTION 16.2. EXEMPTIONS

A. EXISTING DEVELOPMENT

Buildings that were built prior to January 4, 1994, are exempted from the requirements of this Chapter.

B. REDEVELOPMENT

Redevelopment is allowed if the rebuilding activity does not have a net increase in built-upon area or provides equal or greater stormwater control than the previous development, except that there are no restrictions on single family residential redevelopment.

C. EXPANSIONS

Expansions to buildings classified as existing development shall comply with the regulations of this Chapter; however, the built-upon area of the existing development is not required to be included in the impervious calculations.

D. NONCONFORMING LOTS OF RECORD

A lawfully established lot existing prior to January 4, 1994, may be developed for single-family residential purposes without being subject to the regulations of this Chapter.

E. RECOMBINATION PLATS

Recombination of contiguous nonconforming lots of record owned by the same party is required in order to establish a lot or lots that meet or nearly meet the development restrictions of this section are exempted from these regulations, as determined by the Administrator.

F. SILVICULTURE

Silviculture is exempted from the requirements of this Chapter, as determined by the NC Forest Service.

G. AGRICULTURE

Agricultural activity is exempted from these requirements, as determined by the NC Soil and Water Conservation Commission.

H. NCDOT

Activities that are regulated in accordance with provisions of the National Pollutant Discharge Elimination System (NPDES) Permit No. NCS000250 shall be exempted from the standards in this Chapter.

SECTION 16.3. DENSITY & BUILT UPON LIMITS

Minimum and maximum residential and non-residential density and built-upon limits shall be as indicated in the table below, or as required by the underlying zoning district or applicable subdivision regulations, whichever is most stringent.

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SECTION 16.4. MINIMUM DESIGN CRITERIA FOR ALL NEW DEVELOPMENTS

WATERSHED OVERLAY DISTRICT DENSITY AND BUILT-UPON LIMITS			
WATERSHED OVERLAY DISTRICT TYPE	LOCATION IN THE WATERSHED	MAXIMUM ALLOWABLE DENSITY OR MINIMUM LOT SIZE	
		SINGLE-FAMILY RESIDENTIAL (EXCEPT WITHIN CLUSTER DEVELOPMENT)	ALL OTHER RESIDENTIAL AND NON-RESIDENTIAL (CALCULATE BY TOTAL ACREAGE IN THE TRACT)
WS-II	Critical Area	Average of 1 dwelling unit / 2 acres per project <u>OR</u> 80,000 square foot lot excluding street right-of-way	6% built-upon area
	Balance of Watershed	Average of 1 dwelling unit / 1 acre per project <u>OR</u> 40,000 square foot lot excluding street right-of-way	12% built-upon area (up to 70% with SNIA approval)
WS-III	Critical Area	Average of 1 dwelling unit / 1 acre per project <u>OR</u> 40,000 square foot lot excluding street right-of-way	12% built-upon area
	Balance of Watershed	Average of 2 dwelling units / 1 acre per project <u>OR</u> 20,000 square foot lot excluding street right-of-way	24% built-upon area (up to 70% with SNIA approval)
WS-IV	Protected Area	With Curb & Gutter: Average of 2 dwelling units / 1 acre per project <u>OR</u> 20,000 square foot lot excluding street right-of-way	With Curb & Gutter: 24% built-upon area (up to 70% with SNIA approval)
		Without Curb & Gutter: Average of 3 dwelling units / 1 acre per project <u>OR</u> 36% built upon area	Without Curb & Gutter: 36% built-upon area (up to 70% with SNIA approval)

SECTION 16.4. MINIMUM DESIGN CRITERIA FOR ALL NEW DEVELOPMENTS

A. VEGETATED CONVEYANCES

Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.

B. STREAM BUFFERS

1. Vegetated (natural or planted) buffers shall be required along perennial waters indicated on the most recent version of the United States Geological Survey (USGS).
2. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.
3. No new development is allowed in the required buffer except for water-borne structures (e.g., piers, docks, etc.) or other structures such as flag poles, signs, and security lights.
4. The following minimum buffer widths shall apply:
 - i. Special Non-Residential Intensity Allocation (SNIA) approved projects: 100 feet; and
 - ii. All other projects: 30 feet.

SECTION 16.5. SPECIAL NON-RESIDENTIAL INTENSITY ALLOCATION (SNIA)

A. APPLICABILITY

Non-residential development, located outside of critical areas, may occupy up to five percent of the watershed with up to a 70 percent built-upon area, when approved as a special non-residential intensity allocation (SNIA).

B. SUBMITTAL

1. An application for a SNIA shall be submitted at least 30 days prior to the Watershed Review Board meeting at which it is to be heard.
2. Upon completion of the technical review, the Administrator shall prepare and forward the staff report any related application materials to the Watershed Review Board in accordance with Section 10.7, Staff Review and Action.

C. WATERSHED REVIEW BOARD

1. The Planning Board shall act as the Watershed Review Board, shall hold a legislative public hearing, and shall review and approve or deny the SNIA request.
2. Notice of the public hearing shall be published in a newspaper of general circulation once a week for two consecutive weeks prior to the public hearing.
3. Requests requiring revisions shall be returned to the Planning Board within 90 days or the request shall be considered withdrawn.

D. APPROVAL CRITERIA

SNIA requests shall not be approved unless the following requirements are met as demonstrated and certified on the site plan by a professional engineer:

1. The request will minimize built-upon surface area;
2. All stormwater will be directed away from any surface waters;
3. Best management practices will be incorporated to minimize water quality impacts; and
4. All property subject to a request for a special non-residential intensity allocation is uniformly zoned.

E. APPEAL

Appeal of a decision made by the Watershed Review Board with respect to a SNIA application shall be made in accordance with Section 14.4, Appeal of Decision by Watershed Review Board.

F. SET ASIDE FOR PUBLIC PROJECTS AND FACILITIES

1. In order to assure that sufficient land is available for public projects and facilities within Watershed Overlay Districts, 5 percent of the special non-residential intensity allocation shall be set aside for such projects in the Drowning Creek Watershed, the Bear Creek Watershed, the Little River (Vass) Watershed, and the Little River #2 Watershed.
2. At least ten percent of the Nick's Creek Watershed shall be set aside for public projects and facilities, including schools, public buildings, and other similar uses.

SECTION 16.6. CLUSTER DEVELOPMENTS**A. APPLICABILITY**

Cluster developments are allowed in all watershed overlay districts.

B. SUBMITTAL

Cluster developments shall be submitted as a conservation subdivision or planned developments.

C. APPROVAL CRITERIA

Cluster developments shall not be approved unless the following requirements are met:

1. Built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, shall transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable;
2. Areas of concentrated development shall be located in upland areas and away, to the maximum extent practicable, from surface waters (all waters of the state as defined in North Carolina General Statute 143-212, except underground waters) and drainageways; and
3. The development shall meet all applicable density requirements per Section 16.3 Density and Built-Upon Limits;

4. The development shall meet all applicable minimum open space requirements in Section 19.9.D, Minimum Open Space Required, and Section 19.9.E, Ownership of Open Space.

SECTION 16.7. DENSITY AVERAGING OF NONCONTIGUOUS PARCELS**A. APPLICABILITY**

1. Density averaging involves the use of two noncontiguous parcels and is based on the idea that the development plans for a pair of parcels can be submitted together and treated as a single project for purposes of complying with this Chapter.
2. Density averaging of two noncontiguous parcels for purposes of complying with this Chapter shall be allowed in accordance with this Section and NCGS 143-214.5 (d2).

B. SUBMITTAL

1. The application shall be submitted at least 30 days prior to the Watershed Review Board meeting at which it is to be heard.
2. Applications shall include a site plan prepared in accordance with Chapter 4.
3. Upon completion of the technical review, the Administrator shall prepare and forward the staff report any related application materials to the Watershed Review Board in accordance with Section 10.7, Staff Review and Action.

C. WATERSHED REVIEW BOARD

1. The Planning Board shall act as the Watershed Review Board, shall hold a legislative public hearing, and shall review and approve or deny the request.
2. Requests requiring revisions shall be returned to the Watershed Review Board within 90 days or the request shall be considered withdrawn.

D. APPROVAL CRITERIA

The Watershed Review Board shall make written findings supported by appropriate calculations and documentation that the plan, as a whole, conforms to the requirements of this Section.

E. APPEAL

Appeal of a decision made by the Watershed Review Board with respect to an application for density averaging of noncontiguous parcels shall be made in accordance with Section 14.4, Appeal of Decision by Watershed Review Board.

SECTION 16.8. WATERSHED VARIANCE**A. APPLICABILITY**

In addition to the other requirements of Section 14.2, Variances, variance requests from the standards of this Chapter shall comply with the following:

B. MINOR VARIANCES

1. Minor variance applications are intended for developments seeking the reduction of any standard of this Chapter by a factor of less than 10 percent.
2. Minor variances shall be approved by the Watershed Review Board in accordance with this section and all applicable State law.

C. MAJOR VARIANCES

1. Major variance applications are intended for developments seeking the reduction of any standard of this Chapter by a factor of 10 percent or more.
2. Major variances shall comply with Section 14.2, Variances, except that a decision by the Watershed Review Board to approve a major variance shall be advisory only.

3. The Administrator shall, within 30 days of a decision by the Watershed Review Board, forward a record of the Watershed Review Board hearing, findings, and conclusions to the North Carolina Environmental Management Commission or other appropriate State agency for final decision.

D. APPEAL

Appeal of a quasi-judicial decision made by the Watershed Review Board with respect to a minor watershed variance application shall be made to the Superior Court for Moore County in accordance with Section 14.2, Appeal of Quasi-Judicial Decision.

E. NOTICE TO LOCAL GOVERNMENTS

1. Prior to the Watershed Review Board meeting, the Administrator shall notify, in writing, the clerks of all local governments having jurisdiction within that watershed of the variance being requested.
2. Written responses from any of these local governments shall become a permanent part of the records.

SECTION 16.9. ALLOCATION TRANSFER BETWEEN JURISDICTIONS

Moore County, having jurisdiction within a designated water supply watershed may transfer, in whole or in part, its rights to the 5/70 land area to one of the other local government jurisdictions located within Moor County within the same water supply watershed upon submittal of an approved joint resolution between Moore County Board of Commissioners and the governing body of the municipality and approval by the NC Department of Environmental Quality.